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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,299	12/24/2001	Nevenka Dimitrova	US010671	3003

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

JONES III, CLYDE H

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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03/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/028,299	DIMITROVA ET AL.	
	Examiner	Art Unit	
	Clyde H. Jones III	2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

Continuation of 13. Other: Regarding claim 5, addition of the limitation "uses modal logic to control" changes the scope of claims 5, 2, 3, and 6-9, thus requiring further search and consideration.

Regarding claim 10, the removal of the limitation generating snapshots of user viewed content and user behavior each in a preceding period since generation of a prior snapshot and the addition of taking snapshots indicative of user interests [claim 10, lines 12-14] changes the scope of the claim thus requiring further search and consideration.

Regarding the applicant's discussion regarding the definition of modal logic (Remarks, page 12, lines 18-21) and the failure of the Boloker reference to teach modal logic (Remarks, page 13, lines 4-6), the examiner respectfully disagrees. The applicant argues that modal logic "relates to a logic for handling concepts like a possibility, impossibility, necessity, eventually, formerly, can, could, might, must, etc.). In the current Office Action the examiner explains that the Arellano reference teaches concepts such as model prediction logic contingent upon time, i.e., temporal logic and future possible actions and logic/predictions be dependent on them being held true or false. Relevant portions of the Office Action are recited below:

the user model is based on the user's continuing tendency to select certain contents/subjects, i.e., the current models prediction logic is contingent upon the user's future possible actions which may change over time accordingly changing the models prediction logic (Arellano-par. 190), e.g., the user may continuously view www.xyz.com/bowling this week so the current model logic adapts the browser to automatically go to that page when the user request www.xyz.com, however in the future if the user's tendency changes to going to www.xyz.com/fishing instead the model prediction logic will adapt of change because the past logic is no longer valid therefore the model logic is contingent upon predictions being held true or false [par. 910]

The examiner understands that the applicant may be their own lexicographer, however the Arellano reference provides, although not specifically, some suggestion of the desirability to provide a prediction/logic system that deals with concepts of logic changing over time such as possibility, eventually, formerly, etc. Since it is not explicit, the examiner brings in the Boloker reference which is analogous art, and deals specifically with dynamic logic and modalities based on past and future user actions as evidenced in par. 81 and par. 82, lines 3-5 and 10-17, in which the logic based system identifies possibilities, mights, and former assumptions that should change or be updated based on the user's past and current actions.

Therefore it would have been obvious and desirable to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Arellano, in view of Akella and Boloker to include using modal logic as taught by Boloker for the added advantage of increasing the learning and adaptive capability of the system which will generate a better user model and increase user satisfaction (Arellano-par. 190, lines 15-17).

The applicant further seems to argue that Boloker does not teach modal logic because the system is geared towards a browser and/or identifying multiple channels (Remarks, page 13, lines 4-6, page 12, lines 7-17). However, this is irrelevant to the claims because they are both MVC systems and both systems can be reasonably interpreted as browsers or multi-channel interaction interfaces that rely on logic to operate.

Accordingly the applicant's arguments are not persuasive.

Regarding the declaration filed on 12/11/2006 under 37 CFR 1.131 it has been considered but is ineffective to overcome the Akella (US 2002/0178146) reference for the following reasons:


Regarding claim 10, the evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Akella reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The applicant did not provide any facts and or documentary evidence, such as sketches, lab notebook entries, etc., as required under MPEP 715.07(I). Specifically, there is nothing showing evidence that the inventor conceived each an every limitation of claim 10, for example, the limitation "a memory with a hierarchy of linked index nodes and content nodes" as claimed in claims 10, 11, 12, 13, 15 and 16 is not found in the evidence of conception.

The evidence submitted is insufficient to establish diligence prior to the filing date of the Bates reference to either a constructive reduction to practice or an actual reduction to practice. The applicant did not provide any evidence of diligence as required by 715.07(a). The entire period during which diligence is required must be accounted for by either affirmative acts or acceptable excuses. An applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983). See MPEP § 2138.06 for a detailed discussion of the diligence requirement for proving prior invention.

Regarding the applicant's argument that Akella does not teach or suggest analyzing snapshots [Remarks, page 12, lines 30-31] the examiner respectfully disagrees because Akella clearly teaches analyzing the snapshots (par. 31, lines 3-8; par. 25, lines 1-4, step 405-fig. 4). The applicant is not persuasive.

Regarding the applicant's argument that Akella fails to teach or suggest a program or processor programmed to analyze the snapshots [Remarks, page 14, lines 5, 6, 18, 19, 21, and 22] the examiner respectfully disagrees because Akella clearly teaches or suggest an

automated program and processor to analyze the snapshot database (405-fig. 4; par. 17; par. 31, lines 3-8). The applicant is not persuasive..



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600